

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(s):	Pekka Lonka	CONF. NO.:	7703
SERIAL NO.:	10/692,273	ART UNIT:	2617
FILING DATE:	10/23/2003	EXAMINER:	Le, Danh C.
TITLE:	MOBILE COMMUNICATIONS DEVICE WITH A CAMERA		
ATTORNEY			
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Commissioner of Patents
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

This Request is being concurrently filed with a Notice of Appeal. Attention is directed to the following errors in the rejection.

1. The Jacobsen and Matsumo references cannot be combined since Matsumo is for a different problem than the invention of claim 1.
2. Even if the references were somehow combined, the result is not the invention defined by claim 1.
3. Kim cannot be combined with Jacobsen and Matsumo since Kim is for different problem than the invention of claim 5.
4. Even if these three references are somehow combined, the result is not the invention defined by claim 5.

Claims 1-4 & 6-15 are not unpatentable under 35 USC 103 on Jacobsen in view of Matsumoto.

The invention of claim 1 is a mobile communications device which features a viewfinder display and a camera lens essentially on an opposite side than the display. This allows

the viewfinder to have a wide field of view. Also, as recited in claim 1, the device comprises two parts covering each other so that in the transport position the lens is protected and in the operation position the lens is exposed. Thus the claimed invention combines lens protection when being transported with a wide field of view when being operated.

As the Examiner correctly states, Jacobsen fails to disclose the claimed opposite side concept. Further, on page 2 of the office action, the Examiner says reference number 238 to be a "lens of the camera" in Jacobsen, although Jacobsen refers to "the module or pod 238" in column 12, line 59. In fact, the embodiment that Jacobsen illustrates in Figs. 8A and 8B does not have a camera in either of the two parts at all. In particular, Jacobsen explains in column 12, ll. 57-67, that the module or pod 238 has a "micro display" with a "viewing port 240". Also reference number 224, which the Examiner states is a display, is actually a "base portion" in Jacobsen. Still further, the function and positioning of the external camera 215 is explained in column 12, ll. 38-46. According to this, the camera can be mounted in a telescopic element, i.e., it is not located in one of the two parts as recited in claim 1. Thus, after looking figures 8 and 9, as well as reading the related text, the device shown would not achieve what the presently claimed embodiments do, i.e., a camera lens which is protected in the transport position and exposed in operational position of device as the functionality of camera in Jacobsen is not bound to opening or closing of the device in any way.

Matsumoto is for the problems of proper operation of autofocus and auto exposure controls during self-photography (see col. 5, ll. 26-34). Since this reference is for a totally different problem than that of the claimed invention (lens protection combined with wide field of view), it cannot be properly combined with Jacobsen to solve the problem solved by the present invention, see *In re Bibio*, 72 USPQ2d 1209, 1212.

More importantly, Matsumoto fails to disclose the claimed two parts covering each other completely in the transport position to provide lens protection as recited in claim 1.

Thus, even if the references are somehow combined, the result is not the claimed invention since the claimed lens protection combined with a wide field of view feature would still be missing from the resulting combination.

Claim 8 recites " A mobile communications device comprising... a protectable camera lens for the camera, said protectable camera lens located in one of said first part and said second part, and a display located essentially on an opposite side of one of said parts as the protectable camera lens. Thus claim 8 also recites a device which combines a wide field of view with lens protection. As discussed above, neither of the references, even when taken in combination, discloses this combination of claimed features.

Hence, the rejection of claims 1-4 and 6-15 should be withdrawn.

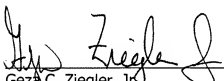
Claim 5 is not unpatentable under 35 USC 103 on Jacobsen and Matsumoto in view of Kim.

Kim is for the problem of a keyboard or voice activated alarm sensor, image capture and storage device, AM/FM radio, etc., in a cell phone in order to dial an emergency number (see col. 1, ll. 53-61). Since this is for a different problem than that of the present invention, it cannot be properly combined with first two references. More importantly, since Kim also fails to disclose the above-discussed and claimed lens protection, wide field of view and opposite part features, combining it with Jacobsen fails to result in the invention defined by the claims.

Hence the rejection of claim 5 should be withdrawn for this additional reason.

The Commissioner is hereby authorized to charge payment of \$500.00 for the Notice of Appeal fee as well as for any other fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


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11 Dec 2004
Date

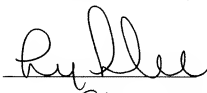
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